

**Supplemental Specification
2005 Standard Specification Book**

SECTION 00555

PROSECUTION AND PROGRESS

Delete Section 00555 in its entirety and replace with the following:

PART 1 GENERAL

1.1 RELATED SECTIONS

- A. Section 00570: Definitions
- B. Section 00725: Scope of Work
- C. Section 00727: Control of Work
- D. Section 01282: Payment
- E. Section 01355: Environmental Protection

1.2 PRECONSTRUCTION CONFERENCE

- A. Contact Engineer within 14 calendar days of receiving Notice of Award to schedule preconstruction conference.

1.3 NOTICE TO PROCEED

- A. Proceed with the work after receipt of written notice from the Department.
- B. Notify the Engineer at least five calendar days before beginning work.

1.4 SUBLETTING THE CONTRACT

- A. Obtain written approval of the Engineer before subletting, selling, transferring, assigning, or disposing any portion of the contract.
- B. Sublet no more than 70 percent of the total contract bid amount.

- C. Subcontracts, whether committed to in writing or by an informal, unwritten arrangement or transfer of the contract, or any part of it or its obligations, do not relieve liability under the contract and bonds. As part of its contract with the Department, the Contractor accepts liability for any claims for damages or liability resulting from an act or omission of any person who carried out work on its behalf, whether that working relationship is through a subcontract or carried out by an informal, unwritten agreement. The Contractor agrees to indemnify the Department for any damages or liability, including attorney's fees and court costs, which may be incurred by such a person.
- D. Do not allow subcontracted work to begin until the request to sublet work is approved by Engineer.
- E. In computing the percentage of subcontracted work, the Department considers an item as subcontracted in its entirety unless otherwise designated in the subcontract.
 - 1. The Department uses the accumulated percentages of all approved subcontracts to determine that the maximum subcontracted limitation is not exceeded.
 - 2. To determine the amount of work subcontracted, the Department uses the total dollar amount of the items subcontracted in the contract bid proposal, divided by the original contract amount.
 - 3. If the prime Contractor is to perform a portion of an item, the Department determines the amount of work subcontracted by using the dollar amount of the item agreed to between the prime Contractor and the subcontractor, excluding bonds, insurance, profit, and office transaction, etc. performed by the Contractor.
- F. For all subcontracts:
 - 1. Provide for a reduction in retained money equal to the percentage retained in accordance with Section 01282.
 - 2. Include a statement describing the method of distribution of any adjustment due to price increases or decreases using applicable price adjustment specifications for fuel, asphalt, cement, common carrier rates, etc.

1.5 ANTICIPATED MONTHLY PAYMENT SCHEDULE

- A. Prepare the Anticipated Monthly Payment Schedule based on the proposed sequence of activities shown in the baseline construction schedule.
 - 1. Use the form provided by the Engineer.
 - 2. Submit the schedule before the date established for the first partial payment.
 - 3. Include both monthly and semi-monthly payments when expected due to the volume of work on the project.
 - 4. Include all contract months when payments are anticipated.

Prosecution and Progress

00555 – Page 2 of 13

November 30, 2006

5. Include dates of contract start, suspension, completion and milestones that impact payments.
- B. Submit a revised Anticipated Monthly Payment Schedule within 30 calendar days after notification by the Engineer. Revisions are required when:
1. Payments vary more than 10 percent from the submitted schedule and the variance is sustained for 60 calendar days.
 2. Contract start, suspension, completion and milestones dates change.
 3. Change orders are approved increasing or reducing the contract amount sufficient to vary actual payments more than 10 percent from the accepted schedule.

1.6 BASELINE CONSTRUCTION SCHEDULE

- A. Provide the Engineer with a baseline construction schedule meeting the requirements of this section using Primavera 5.0 (or current version) or Primavera Contractor.
1. Accurately reflect the proposed approach to accomplish the work.
 2. Provide a schedule narrative as described in this article.
- B. Use the baseline construction schedule to coordinate all activities on the project, including those with other entities such as subcontractors, vendors and suppliers, utilities, local governments, special service districts, and the Department.
- C. Employ a sufficient workforce, supply adequate materials and equipment, and progress the work with such diligence as to maintain the rate indicated in the accepted baseline construction schedule.
1. All costs to maintain the schedule are solely the Contractor's obligation and at no expense to the Department.
- D. Schedule Submission
1. Submit to the Engineer a baseline construction schedule with schedule narrative within 14 calendar days of the Notice of Award. Submit one hard copy and one electronic copy in a format acceptable to the Engineer.
 2. The Engineer reviews the schedule and returns it, accepted or with comments, within seven calendar days from the date of receipt.
 - a. Address any comments and revise the schedule as necessary to the satisfaction of the Engineer.
 3. Complete the final baseline schedule and obtain Engineer's acceptance within 30 calendar days from the Notice of Award.
 - a. No progress payments are made before the Engineer accepts the baseline construction schedule.

4. The Contractor is solely responsible for planning and executing the work. Engineer's acceptance of the baseline schedule does not:
 - a. Imply approval of any particular construction methods or relieve the Contractor's responsibility to provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the contract,
 - b. Attest to the validity of assumptions, activities, relationships, sequences, resource allocations, or any other aspect of the baseline construction schedule.
5. Failure to include any element of work required by the contract in the accepted baseline construction schedule does not relieve the Contractor's responsibility to perform such work.
6. In no way does the baseline construction schedule modify the contract documents.

E. Schedule Requirements

At a minimum, address the following:

1. Define a complete and logical plan that can realistically be accomplished for executing the work defined in the contract.
2. Include sufficient activities for adequate project planning, including subcontractor, third party, vendor, and supplier activities.
3. Clearly show the critical path using the longest path definition and other critical elements of work.
 - a. Define the critical path of the schedule based on resource limitations if the schedule is resource loaded and leveled.
4. If an early completion schedule is accepted, the Engineer defines the additional Department costs required to support the accelerated schedule, such as increased staff for inspection and testing, overtime, etc.
 - a. Pay for these added costs unless waived by the Engineer on the basis of other benefits accrued to the Department.
5. Clearly define significant interaction points with the Department and other entities such as subcontractors, vendors and suppliers, utilities, local governments, and special service districts.
6. Designate the "Data Date" as the day before the Notice to Proceed.
7. Include a unique identification number for each schedule activity.
8. Clearly and uniquely define each activity description. Using descriptions referring to a percent complete of a multi-element task (i.e., "Construction 50 percent of Deck") is not acceptable.
9. Define the duration of each activity.
 - a. Limit the maximum duration of any activity to 15 days unless otherwise accepted by the Engineer.
10. Clearly identify the relationships tying activities together.
11. Do not have any open-ended activities, except for one start and one finish activity.
12. Do not have any constrained activities unless the Engineer accepts such constraints.

13. Do not sequester project total float through manipulating the calendars, extending activities durations, or any other such methodology.
14. Use resource loading if resource limitations can affect the prosecution of the work.
 - a. No request or claim for contract time extension based on resource shortages will be considered unless the baseline and subsequent schedule updates are resource loaded.
15. Include milestones to define significant contractual events such as Notice to Proceed, substantial completion, and coordination points with outside entities such as utilities, special service districts, etc.
16. Include a well-defined activity coding structure that allows project activities to be sorted by type of work, location of work, work breakdown structure (WBS), or as mutually agreed to by the Contractor and the Engineer.
17. Clearly define calendars.

F. Schedule Narrative Requirements

1. Provide a schedule narrative that describes:
 - a. The construction philosophy supporting the approach to the work outlined in the baseline schedule. Address the reasons for the sequencing of work and describe any limited resources, potential conflicts, and other salient items that may affect the schedule and how they may be resolved.
 - b. The justification for activities with durations exceeding 15 working days.
 - c. The justification for constraints used.
 - d. The justification for unusual calendars used.
 - e. The approach used to apply relationships between activities (for example, all ties are based on physical relationships between work activities - rebar must be placed before concrete is placed; or relationships are used to show limited resources - bridge two follows bridge one because the Contractor only has one bridge crew; etc.).
 - f. The project critical path and challenges that may arise associated with the critical path.
 - g. How the coordination with other entities will be handled.

G. Project Float

Total project float is defined as the cumulative length of time activities can be delayed before they affect the finish date of the project or a contractual milestone.

1. Float is a shared commodity between the Contractor and the Department and not for the exclusive use or financial benefit of either party.
 - a. Either party has the full use of the project float until it is depleted.

1.7 CONSTRUCTION SCHEDULE UPDATES

- A. Update the construction schedule each month during the life of the contract until the closing date for the scheduled progress payment following project final acceptance.
 - 1. The Engineer does not approve progress payment until an acceptable schedule update has been received.
 - 2. Show actual progress for each activity:
 - a. Actual start and finish dates for completed activities
 - b. Actual start dates, percent complete, and remaining duration for activities in progress
 - c. Projected sequences of activities for future work
 - d. Revised relationships and durations for unfinished activities, if warranted
 - e. A well-defined critical path
 - f. Change the data date to one day after the closing date for the monthly progress payment
- B. Submit one hard copy and one electronic copy of the schedule update to the Engineer for review and acceptance.
- C. Along with the updated schedule, submit a narrative describing:
 - 1. Work performed during the estimate period.
 - 2. Problems or delays that have been experienced to date, the party responsible for the problems or delays, and the Contractor's plan to resolve the problems or bring the delayed activities back on schedule.
 - 3. Differences between the work performed and the work planned for the period, including explanations for the deviations.
 - 4. The current critical path of the project, explaining any changes since the last update and the impacts of these changes.
 - 5. Reasons for and impacts resulting from all of the following that apply:
 - a. Added or deleted activities
 - b. Changes in activity durations
 - c. Changes in relationships between activities
 - d. Addition or deletion of constraints
 - e. Changes to project calendars
 - 6. The work to be accomplished during the next period. Provide reasons for deviations from the previous schedule update.
 - 7. Potential problems that may be encountered during the next period and the proposed solutions. Identify all potential problems the Department may be party to and explain what action the Department needs to take and the date by which time the action needs to be taken to avoid the problem.

- D. At the request of the Engineer, participate in a progress meeting to review and discuss the updated schedule information, including any activity delays, remedies, schedule revisions, coordination requirements, change orders, potential delays, and other relevant issues.
 - 1. Make available the project manager, scheduler, and appropriate field personnel to participate in the progress meeting.
 - 2. Make and record an action item list that describes who is responsible for resolving existing or pending issues and the date by which the issue needs to be resolved to avoid contract delays.
 - 3. Submit a revised schedule update if necessary.

1.8 LIMITATION OF OPERATIONS

- A. Minimize interference with traffic during performance of the work.
- B. Do not perform any work without written approval except for repairing or servicing equipment, protecting work, maintaining or curing concrete, and maintaining traffic on Sundays or holidays.
- C. Night work:
 - 1. Provide five calendar day's notice before starting night work.
 - 2. Provide adequate lighting for performing satisfactory inspection and construction operations.
 - 3. Control noise and vibration in accordance with Section 01355.

1.9 CHARACTER OF WORKERS

- A. Provide sufficient resources to complete all work in accordance with the contract and employ workers with the skills and experience necessary to perform the work.
- B. Remove from the project any employee who performs the work in an improper or unskilled manner or who is intemperate or disorderly. Return these employees to the project only with the Engineer's written permission.
- C. The Engineer may suspend work for the Contractor's failure to remove any employee or furnish suitable and sufficient personnel to perform the work.

1.10 METHODS AND EQUIPMENT

- A. Use equipment of the size and mechanical condition to perform and produce the specified work.
- B. Do not damage the roadway, adjacent property, or other highways.

- C. When methods or equipment are specified in the contract, use methods or equipment other than specified only with the Engineer's written permission.
 - 1. Describe in writing the proposed methods and equipment and the reasons for the change.
 - 2. Once approved, produce work that meets project requirements.
 - 3. Discontinue alternate methods or equipment if the Engineer determines that the work does not meet contract requirements.
 - 4. Remove and replace or repair deficient work to meet specified quality at no cost to the Department.
 - 5. The Department does not change the basis of payment or contract time for a change in methods or equipment.

1.11 CONTRACT TIME

- A. Contract time begins 10 calendar days after the date of the Notice to Proceed, unless otherwise specified.
- B. The contract documents define the time allowed to complete the contract. Contract time is measured in either working days or calendar days as defined in Section 00570. When a completion date is specified, the completion date is when the contract is required to be substantially complete.
 - 1. When the contract defines the time allowed to complete the contract in working days or calendar days, the Department excludes the days elapsing between the effective dates of any orders of the Engineer to suspend and resume work that are not the fault of the Contractor.
- C. The Engineer furnishes a Monthly Status of Contract Time showing the number of days expended to date and the number of days remaining for substantial completion.
 - 1. This statement is considered correct unless a written protest documenting the differences is submitted to the Engineer within seven calendar days of receipt.
 - 2. File a written protest with the Engineer within seven calendar days of receiving Monthly Status of Contract Time charges on working day contracts when not in agreement with the time assessed.
 - a. Document asserted discrepancies in the time assessed.
 - b. Failure to file a protest is acceptance of the time assessments.
- D. Refer to Section 00570 for definitions of substantial completion, physical completion, and contract completion.

1.12 DETERMINING COMPENSATION AND CONTRACT TIME EXTENSION FOR EXCUSABLE DELAYS

- A. Request a contract time extension for excusable delays in accordance with this article. Refer to Section 00570.
 - 1. Time may be granted for noncompensable delays that impact the project schedule's critical path. Additional compensation will not be granted.
 - 2. Time and monetary compensation may be granted for compensable delays that impact the project schedule's critical path and the Contractor's costs.
- B. Provide a written request to the Engineer within seven calendar days of the occurrence of an excusable delay detailing the reasons for a time extension and additional compensation, if applicable. The Engineer responds to the written request as described for differing site conditions, changes, and requests or claims for additional compensation as specified in Section 00725.
 - 1. Once a delay-causing event is identified, take all reasonable steps to minimize the impact of the delay. Failure to do so may result in the rejection of all or part of the delay claim.
 - 2. Costs incurred before notification of delay are not allowed.
 - 3. Provide the Engineer with a schedule impact analysis showing the impact of the delay-causing event on the project schedule.
 - 4. Maintain daily records of all labor and material costs, station locations, and equipment expenses for all operations affected.
 - a. Obtain Engineer's concurrence with these records on a daily basis.
 - 5. Prepare and submit to the Engineer weekly written reports that contain:
 - a. Number of days of delay.
 - b. Summary of all delayed operations or those that will be delayed and the cause for delay.
 - c. Itemize all extra costs incurred:
 - 1) Document how the extra costs relate to the delay and how they are calculated and measured.
 - 2) Identify all affected project employees for whom costs are being compiled.
 - 3) Summarize equipment time charges and identify equipment by manufacturer's number.
 - 4) Provide certification of all costs.
 - 6. Meet with the Engineer weekly to compare the previous week's daily records with those maintained by the Department.
 - a. Resolve any disagreement over weekly delay costs with the Engineer.
 - b. Provide written notice within 10 calendar days documenting the disagreement between Department and Contractor calculations of weekly delay costs.
 - c. Failure to provide written notification is interpreted as acceptance that Department records are accurate.

- C. Contract adjustment is made as written modification to the contract through change order, when warranted, unless the Contractor does not notify the Engineer in accordance with this article.
 - 1. Time will be added to the contract based on the overall extension of the critical path of the project schedule attributed to the delay-causing event.
- D. Delay compensation for excusable delays is made in accordance with Section 01282.
- E. If the Engineer decides a contract adjustment identified by the Contractor is unnecessary, and the Contractor does not agree with the Engineer's decision, the Contractor may pursue a claim for additional compensation or contract adjustment as specified in Section 00727.

1.13 FAILURE TO COMPLETE ON TIME

- A. Achieve substantial completion within the specified contract time. The Department deducts from any money due the sum specified in the following Schedule of Liquidated Damages (Table 1) for each calendar day or working day that any work remains necessary for substantial completion after the specified contract time, including any approved extensions.
- B. Achieve physical completion no later than 30 calendar days after substantial completion. The Department deducts \$210 per day from any money due for each calendar day beyond 30 calendar days following substantial completion for any work necessary for physical completion. Refer to Sections 00570 and 00727.
- C. Achieve contract completion no later than 30 calendar days after notification of physical completion/final acceptance. The Department deducts \$100 per day from any money due for each calendar day beyond 30 calendar days following notification of final acceptance that any Contractor obligation under the contract remains unfulfilled. Refer to Sections 00570 and 00727.

Table 1 - Schedule of Liquidated Damages

Original Contract Amount		Daily Charge	
From more than	To and including	Calendar Day Completion Date	Work Day
\$0	\$100,000	\$210	\$830
100,000	500,000	450	950
500,000	1,000,000	680	1380
1,000,000	5,000,000	1270	2170
5,000,000	10,000,000	1860	2950
10,000,000	30,000,000	2770	4930
30,000,000		4100	8240

- D. Continuing and completing the work after the contract time expires does not waive the Department's rights under the contract.

1.14 CONTRACT TERMINATION FOR DEFAULT

- A. The Department may declare the Contractor to be in default and terminate the contract if the Contractor:
 - 1. Does not begin the work under the contract within the time specified.
 - 2. Does not perform the work with sufficient resources to assure the prompt completion of the work.
 - 3. Does not meet contract work requirements or neglects or refuses to remove and replace rejected materials or unacceptable work.
 - 4. Stops work.
 - 5. Does not resume stopped work within the time specified upon notification from the Department.
 - 6. Becomes insolvent or is bankrupt or commits related acts.
 - 7. Is nonresponsive to final third-party judgments.
 - 8. Makes an assignment for the benefit of creditors without the Department's approval.
 - 9. Does not comply with contract requirements including minimum wage payments or EEO contract requirements.
 - 10. Is a party to fraud.
- B. The Engineer may declare the Contractor in default by written notice to the Contractor and the Surety advising them of the actions required for remedy.
- C. Comply with the written notice within 10 calendar days of receipt or the Department has full power and authority to terminate the contract.
- D. The Department may appropriate or use any or all materials at the project site and enter into another contract for completion of the work according to the terms and provisions thereof or use such methods as determined by the Department to complete the contract.
- E. All costs and charges incurred by the Department, including the cost of completing the work under the contract, are deducted from money owed or that may be owed the Contractor. The Contractor and Surety are liable and must pay the Department for the difference if the expense exceeds the sum that would have been payable under the contract.
- F. If it is determined after termination of the Contractor's right to proceed, that the Contractor was not in default or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for public convenience.

1.15 CONTRACT TERMINATION FOR PUBLIC CONVENIENCE

- A. The Department may by written order terminate the contract or any portion thereof after determining that for reasons beyond the Contractor's or the Department's control, the Contractor is prevented from proceeding with or completing the work and that termination is in the public interest.
 - 1. Specifics on the termination and the effective date will be detailed in a Notice of Termination.
- B. Reasons for termination may include, but are not limited to:
 - 1. Executive Orders of the President or State Governor.
 - 2. National emergency that creates a serious shortage of materials.
 - 3. Orders from duly constituted authorities relating to energy conservation.
 - 4. Restraining Orders or Injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.
 - 5. Court restraining orders based on acts or omissions of persons or agencies other than the Contractor.
 - 6. Conditions determined to be in the best interest of the Department.
- C. Upon receipt of Notice of Termination, immediately:
 - 1. Stop work as specified.
 - 2. Place no further subcontracts or order materials, services, or facilities except as approved to complete any remaining portion of the contract.
 - 3. Terminate all subcontracts to the extent they relate to terminated work.
 - 4. Settle all outstanding liabilities and termination settlement proposals.
 - 5. Transfer title and deliver to the Department:
 - a. Unfabricated or partially fabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated,
 - b. Completed or partially completed plans, drawings, information, and other property required to be furnished to the Department if the contract had been completed.
 - 6. Complete work not terminated.
 - 7. Coordinate a time and date with the Engineer to inventory materials obtained but not yet used for the project.
 - 8. Take all necessary or directed actions to protect contract-related property that is in the possession of the Contractor and in which the Department has or may have an interest.

- D. When the Department orders termination of a contract effective on a certain date, the Department pays for all completed items of work as of that date at the contract bid price.
1. The Department pays for partially completed work either at agreed prices or by force account methods.
 2. The Department pays for items that are eliminated in their entirety in accordance with Section 01282.
- E. Materials obtained by the Contractor that have not been incorporated into the project may be:
1. Purchased from the Contractor at the option of the Department at actual cost delivered to a prescribed location.
 2. Disposed of as mutually agreed.
- F. Contractor may submit a claim for additional costs not covered in the contract after receipt of Notice of Termination from the Department.
1. Submit within 60 calendar days of the effective termination date.
 2. Include cost items such as:
 - a. Reasonable idle equipment time
 - b. Mobilization efforts
 - c. Bidding and project investigative costs
 - d. Overhead expenses attributable to the project terminated
 - e. Reasonable profit on work completed
 - f. Subcontractor costs not otherwise paid for
 - g. Actual idle labor cost if work is stopped before termination date
 - h. Guaranteed payments for private land usage as part of original contract
 - i. Any other direct cost the Contractor has incurred
 3. The negotiated settlement figure reached with the Contractor does not include loss of anticipated profits.
- G. Make cost records available to the Department for determining the validity and amount of each item claimed and for providing a basis for negotiating an equitable settlement.
- H. Termination of a contract or portion thereof does not relieve the Contractor of contractual responsibilities for the work completed or relieve the Surety of its obligation for and concerning any just claim arising out of the work performed.

PART 2 PRODUCTS Not used

PART 3 EXECUTION Not used

END OF SECTION